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2  
3 **ORDINANCE NO. 2013-13**

4 **AN ORDINANCE OF THE TOWN COMMISSION OF THE**  
5 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA,**  
6 **PROVIDING FOR THE SUBMISSION TO THE ELECTORS**  
7 **OF PROPOSED AMENDMENTS TO THE TOWN**  
8 **CHARTER, PURSUANT TO SECTION 166.031, FLORIDA**  
9 **STATUTES, FOLLOWING TOWN COMMISSION REVIEW**  
10 **AND CONSIDERATION OF CHARTER AMENDMENTS**  
11 **RECOMMENDED BY THE CHARTER REVIEW BOARD**  
12 **IN ACCORDANCE WITH SECTION 2.7 OF THE TOWN**  
13 **CHARTER; SUBMITTING PROPOSED CHARTER**  
14 **AMENDMENTS CONCERNING AMENDMENT OF**  
15 **SECTION 5.3 "TOWN MANAGER-APPOINTMENT,**  
16 **QUALIFICATIONS AND COMPENSATION," SECTION 6.2**  
17 **"VICE MAYOR AND ACTING MAYOR PRO-TEM,"**  
18 **SECTION 6.3 "QUALIFICATIONS OF MEMBERS OF**  
19 **TOWN COMMISSION," SECTION 6.6 "FORFEITURE OF**  
20 **OFFICE," SECTION 6.7 "FORFEITURE HEARING AND**  
21 **PROCESS," AND CREATION OF SECTION 6.10**  
22 **"VACANCY IN CANDIDACY FOR MAYOR-**  
23 **COMMISSIONER OR COMMISSIONER;" CALLING A**  
24 **SPECIAL ELECTION ON THE PROPOSED CHARTER**  
25 **AMENDMENTS TO BE HELD ON TUESDAY, THE 11TH**  
26 **DAY OF MARCH 2014, IN CONJUNCTION WITH THE**  
27 **GENERAL ELECTION BEING HELD ON SAID DATE;**  
28 **PROVIDING FOR VOTING AT THE POLLS; PROVIDING**  
29 **FOR NOTICE OF ELECTION; PROVIDING FOR**  
30 **REQUISITE BALLOT LANGUAGE; PROVIDING FOR**  
31 **INCLUSION IN THE CHARTER, SEVERABILITY AND**  
32 **FOR AN EFFECTIVE DATE.**

33 **WHEREAS,** pursuant to Section 2.7 of the Town Charter, the Charter Review Board has  
34 determined that certain revisions are needed to the Town Charter and has submitted its  
35 recommendation of proposed amendments to the Town Charter to the Town Commission; and

36 **WHEREAS,** pursuant to Section 2.7 of the Town Charter and Section 166.031, Florida  
37 Statutes, the Town Commission has considered the recommendation of the Charter Review  
38 Board and has determined, at the Town Commission's discretion, to submit to the electors of the

39 Town for approval or rejection only those amendments to the Town Charter (the "Charter  
40 Amendments") that are set forth herein.

41 **NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION**  
42 **OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:**

43 **Section 1. Recitals Adopted.** Each of the above stated recitals is hereby adopted and  
44 confirmed.

45 **Section 2. Charter Amendments.** Pursuant to Section 2.7 of the Town Charter and  
46 Section 166.031, Florida Statutes, and subject to the approval of the electors as described in  
47 Section 8 below, the Town Charter of the Town of Lauderdale-By-The-Sea, Florida, is hereby  
48 amended as follows:<sup>1</sup>

49 \* \* \*

50  
51 **ARTICLE V. – TOWN OFFICERS AND EMPLOYEES**

52 \* \* \*

53  
54 **Sec. 5.3. - Town Manager—Appointment, qualifications and compensation.**

55  
56 The Town Commission shall appoint a Town Manager who shall be the  
57 administrative head of the municipal government under the direction and supervision of  
58 the Town Commission. The Town Manager shall hold office at the pleasure of the Town  
59 Commission. The Town Manager shall receive such compensation as determined by the  
60 Town Commission through the adoption of an appropriate resolution. The Town Manager  
61 shall be appointed by resolution approving an employment contract between the Town  
62 and the Town Manager. The Town Manager shall be appointed solely on the basis of  
63 education and experience in the accepted competencies and practices of local public  
64 management including, a graduate degree with a concentration in public administration,  
65 public affairs, public policy, or public finance and two (2) years' experience as an  
66 appointed city manager or county manager, or four (4) years' experience as an assistant or  
67 deputy city manager or assistant or deputy county manager. Alternatively, the Town

<sup>1</sup> Proposed additions to existing Town Charter text are indicated by underline; proposed deletions from existing Town Charter text are indicated by ~~strikethrough~~. Changes from first reading are indicated by double underline and ~~double strikethrough~~, and highlighted in [REDACTED].

68 Manager shall be appointed on the basis of education and experience in the accepted  
69 competencies and practices of local public management that is determined by the Town  
70 Commission to be commensurate to those listed in the prior sentence.

71  
72 \* \* \*

73  
74 **ARTICLE VI. – ELECTIONS**

75  
76 \* \* \*

77 **Sec. 6.2. - Vice Mayor and acting Mayor Pro-Tem.**

78 No later than ~~On~~ the second regularly scheduled Town Commission meeting to occur Tuesday  
79 following each regular election, one (1) member of the Town Commission may be designated, by  
80 resolution, as Vice Mayor to preside in the absence of the Mayor-Commissioner. In the event  
81 that the designated Mayor-Commissioner and the Vice Mayor are absent at any meeting of the  
82 Town Commission, any member of the Town Commission may be designated by the Town  
83 Commission to act as Mayor Pro-Tem for such meeting.

84 **Sec. 6.3. - Qualifications of members of Town Commission.**

85 (1) To be eligible to hold the office of Mayor-Commissioner or Commissioner of the Town of  
86 Lauderdale-By-The-Sea, or to qualify for candidacy for Mayor-Commissioner or Commissioner,  
87 the individual shall be a bona fide resident and citizen of the Town of Lauderdale-By-The-Sea,  
88 shall have resided in the said town for the six (6) months immediately preceding the date of  
89 election, shall be a registered voter pursuant to Florida law, and shall be otherwise qualified as  
90 provided for in the Charter.

91 (2) No person may be a candidate for Commissioner, nor may be appointed to fill a vacancy as  
92 a Commissioner, if that person has served during both of the two preceding consecutive  
93 Commission terms for that seat as a Commissioner ~~or a Mayor-Commissioner or both~~, without a  
94 two year break in service.

95 (3) No person may be a candidate for Mayor-Commissioner, nor may be appointed to fill a  
96 vacancy as the Mayor-Commissioner, if that person has served during each of the three  
97 preceding consecutive Mayor-Commissioner terms as a Mayor-Commissioner.

98 (4) Service of one year or less of a term by a person who had not previously served as either a  
99 Commissioner or Mayor-Commissioner shall not be considered for purposes of term limits.

100 (5) Service for purposes of term limits shall be determined as of the time the person would take  
101 office.

102 (6) No person may be a candidate for Mayor-Commissioner or Town Commissioner, nor may be  
103 appointed to fill a vacancy as the Mayor-Commissioner or Town Commissioner, if that person  
104 has consecutively served fourteen (14) years in any combination of offices without a two year  
105 break in service.

106  
107

\* \* \*

108 **Sec. 6.6. - Forfeiture of office.**

109 A Commission member, or the Mayor-Commissioner, ~~shall forfeit the~~ is subject to penalties  
110 including forfeiture of office if the person:

111 (1) Lacks, at any time during a term of office, any qualification for the office prescribed  
112 by this Charter or general law;

113 (2) Violates any standard of conduct or code of ethics established by law for public  
114 officials;

115 (3) Is convicted of a felony while in office;

116 (4) Fails to attend four (4) consecutive regular meetings of the Town Commission without  
117 being excused by the Town Commission by formal action entered upon the minutes; or

118 (5) Becomes incapable of performing the duties of the office for a period of more than  
119 three (3) months.

120 In all circumstances arising under this section, the Town Commission shall be the judge of its  
121 own membership.

122 **Sec. 6.7. - Forfeiture hearing and process.**

123 A member of the Town Commission charged with conduct constituting grounds for forfeiture of  
124 his office shall be entitled to a public hearing on demand, and notice of such hearing shall be  
125 published in one or more newspapers of general circulation in the Town at least thirty days  
126 before the scheduled hearing. At that public hearing, the Commissioner in question is entitled to  
127 present evidence and must be afforded due process. The Town Commission shall be the sole  
128 judge of the qualifications of its members and shall hear all questions relating to forfeiture of a  
129 Commissioner's or Mayor-Commissioner's office, including whether or not good cause for  
130 absence has been, or may be, established. The Commissioner in question shall have the burden of  
131 establishing good cause for absence; provided, however, that any Commissioner may at any time  
132 during any duly held meeting move to establish good cause for his or her absence or the absence  
133 of any other Commissioner, from any past, present, or future meeting(s), which motion, if  
134 carried, shall be conclusive. A Commissioner whose qualifications are in question, or who is  
135 otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Town  
136 Commission may order one or more of the following penalties at a hearing based on Section  
137 6.6(2) or Section 6.6(5): forfeiture of office, censure, and a letter of instruction for the future  
138 conduct of the Commissioner. The Town Commission may order forfeiture at a hearing based  
139 on Section 6.6(1), (3) or (4). Any final determination by the Town Commission that a  
140 Commissioner or the Mayor-Commissioner has forfeited his or her office, or to censure or issue  
141 a letter of instruction to the Commissioner in question, shall be made by resolution approved by  
142 a unanimous vote of the remaining members of the Town Commission. All votes and other acts

of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

\* \* \*

**Sec. 6.10. - Vacancy in candidacy for Mayor-Commissioner or Commissioner.**

(a) *Withdrawal.* A candidate for Mayor-Commissioner or Commissioner may withdraw at any time prior to the election by filing a sworn, executed statement of withdrawal with the Town Clerk.

(b) *Effect of death, withdrawal or removal where candidate remains on the ballot.*

(1) *No supplemental qualifying period.* ~~(i)~~ If the death, withdrawal or removal from the ballot of a qualified candidate or candidates for office following the end of the qualifying period leaves less than two candidates for that office, and at least twenty five (25) days remain before the election, the qualifying period for that office shall be reopened for five (5) days. The supplemental qualifying period shall begin on the day following the day that the vacancy occurs. Notice of the supplemental qualifying period shall be posted by the Town Clerk.

~~(ii) If fewer than twenty five (25) days remain before the election, no supplemental qualifying period shall be provided. The remaining candidate shall be declared elected and no election shall be held for that office.~~

(2) *Changes in ballot.* The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void. All candidates qualified during a supplemental qualifying period shall be placed on the ballot along with the remaining candidate, if possible.

~~(3) *Treatment of any remaining candidate.* Where a single candidate remains for an office, the remaining candidate for that office shall not be required to re-qualify for election or pay a second qualifying fee. The remaining candidate shall not be declared an unopposed candidate by the Town Clerk unless no additional candidate qualifies for election during the supplemental qualifying period. If declared unopposed, the remaining candidate shall be declared elected by operation of law.~~

(c) *Effect of death, withdrawal or removal where no candidate remains on the ballot.* Should a vacancy in candidacy leave no candidate remaining for an office after the conclusion of the qualifying period and any supplemental qualifying period but before the election, the resulting vacancy shall be handled as provided in Section 6.8 of the Charter.

\* \* \*

**Section 3. Election Called.** A special election is hereby called for Tuesday, March 11, 2014, in conjunction with the general election being held on said date, to present to the qualified electors of the Town of Lauderdale-By-The-Sea (the "Town"), each of the ballot questions provided in Section 4 of this Ordinance.

**Section 4. Form of Ballot.** The form of ballot for the Charter Amendments provided for in Section 2 of this Ordinance shall be substantially as follows:

(1) CREATE ALTERNATIVE STANDARD FOR TOWN COMMISSION TO DETERMINE TOWN MANAGER QUALIFICATIONS

The Charter currently identifies qualifications for the Town Manager, including specifically identified levels of education and experience establishing acceptable competencies and practices of local public management experience.

Shall the Charter be amended to give the Town Commission the option to determine that other levels of education and experience are acceptable because they are comparable to the identified levels?

YES [ ]

NO [ ]

(2) CHANGE TIME FOR TOWN COMMISSION TO DESIGNATE THE VICE-MAYOR

The Charter currently provides that the Town Commission must designate a Vice Mayor on the second Tuesday following each regular election.

Shall the Charter be amended to provide that the Town Commission designate a Vice-Mayor no later than the second regularly scheduled Town Commission meeting following each regular election?

YES [ ]



218  
219 NO [ ]  
220

221  
222 (3) ALLOW MAYOR-COMMISSIONER TO RUN FOR  
223 TOWN COMMISSIONER AFTER REACHING TERM  
224 LIMIT AS MAYOR-COMMISSIONER  
225

226 The Charter currently prohibits a Mayor-Commissioner from  
227 running for Town Commissioner immediately following three  
228 consecutive terms of service as Mayor-Commissioner.  
229

230 Shall the Charter be amended to allow future Mayor-  
231 Commissioners to run for Town Commissioner without a two-year  
232 break in service?  
233

234 YES [ ]  
235

236 NO [ ]  
237

238  
239 (4) ESTABLISH MAXIMUM CONSECUTIVE TERM  
240 LIMIT FOR SERVICE AS MAYOR-COMMISSIONER  
241 AND TOWN COMMISSIONER  
242

243 The Charter currently limits service as a Mayor-Commissioner to  
244 three terms and service as a Town Commissioner to two terms, but  
245 does not limit continuous service alternating between the two  
246 offices.  
247

248 Shall the Charter be amended to provide that no person may be  
249 elected or appointed as Mayor-Commissioner or Town  
250 Commissioner if that person has served a total of fourteen years in  
251 any combination of offices, without a two year break in service?  
252

253 YES [ ]  
254

255 NO [ ]  
256

257  
258 (5) AMEND PROCEDURES AND PENALTIES  
259 APPLICABLE TO ALLEGED COMMISSIONER  
260 VIOLATIONS  
261

The Charter currently provides that, if the Town Commission finds that one of its members has committed certain acts, that Commissioner shall forfeit office.

Shall the Charter be amended to clarify the due process requirements for such hearings, and to allow the Commission to consider lesser penalties (censure and a letter of instruction) for violation of any standard of conduct or code of ethics established by law and for incapacity for three or more months?

YES [ ]

NO [ ]

(6) CREATE PROCEDURES FOR VACANCIES IN CANDIDACY FOR TOWN ELECTED OFFICE

Section 166.031(6), Florida Statutes, requires that local governments create a procedure to address vacancies in candidacy before an election.

Shall the Charter be amended to add procedures related to candidate vacancies including procedures for withdrawal, supplemental qualifying periods, treatment of remaining candidates, and effects of death, withdrawal or removal of candidates?

YES [ ]

NO [ ]

**Section 5. Vote at Polls.** Balloting shall be conducted between the hours of 7 A.M. and

7 P.M. on the date of the election, and early and absentee balloting shall also be permitted as provided in conjunction with the general election. Polling places shall be those polling places provided for the general election for the electors of the Town, pursuant to applicable laws. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote. The Town Clerk is authorized to obtain any necessary election administration services



from the Broward County Supervisor of Elections. The County registration books shall remain open at the Office of the Broward County Supervisor of Elections office until February 10, 2014, as provided by law, at which date the registration books shall close in accordance with the provisions of the general election laws. The Town Clerk and the Broward County Supervisor of Elections are hereby each authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Ordinance. This Charter Amendment election shall be canvassed by the County Canvassing Board unless otherwise provided by law.

**Section 6. Notice of Special Election.** Notice of said special election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, February 2, 2014), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, February 16, 2014), and shall be in substantially the following form:

"NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT, PURSUANT TO ORDINANCE NO. 2013-13 ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA (THE "TOWN"), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN, IN CONJUNCTION WITH THE GENERAL ELECTION, ON TUESDAY, THE 11TH DAY OF MARCH 2014, BETWEEN THE HOURS OF 7 A.M. AND 7 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN:

- (1) CREATE ALTERNATIVE STANDARD FOR TOWN COMMISSION TO DETERMINE TOWN MANAGER QUALIFICATIONS

The Charter currently identifies qualifications for the Town Manager, including specifically identified levels of education and experience establishing acceptable competencies and practices of local public management experience.

Shall the Charter be amended to give the Town Commission the option to determine that other levels of education and experience are acceptable because they are comparable to the identified levels?

YES [ ]

NO [ ]

(2) CHANGE TIME FOR TOWN COMMISSION TO DESIGNATE THE VICE-MAYOR

The Charter currently provides that the Town Commission must designate a Vice Mayor on the second Tuesday following each regular election.

Shall the Charter be amended to provide that the Town Commission designate a Vice-Mayor no later than the second regularly scheduled Town Commission meeting following each regular election?

YES [ ]

NO [ ]

(3) ALLOW MAYOR-COMMISSIONER TO RUN FOR TOWN COMMISSIONER AFTER REACHING TERM LIMIT AS MAYOR-COMMISSIONER

The Charter currently prohibits a Mayor-Commissioner from running for Town Commissioner immediately following three consecutive terms of service as Mayor-Commissioner.

Shall the Charter be amended to allow future Mayor-Commissioners to run for Town Commissioner without a two-year break in service?

374 YES [ ]

375  
376 NO [ ]

377  
378  
379 (4) ESTABLISH MAXIMUM CONSECUTIVE TERM  
380 LIMIT FOR SERVICE AS MAYOR-COMMISSIONER  
381 AND TOWN COMMISSIONER  
382

383 The Charter currently limits service as a Mayor-Commissioner to  
384 three terms and service as a Town Commissioner to two terms, but  
385 does not limit continuous service alternating between the two  
386 offices.  
387

388 Shall the Charter be amended to provide that no person may be  
389 elected or appointed as Mayor-Commissioner or Town  
390 Commissioner if that person has served a total of fourteen years in  
391 any combination of offices, without a two year break in service?  
392

393 YES [ ]

394  
395 NO [ ]

396  
397  
398 (5) AMEND PROCEDURES AND PENALTIES  
399 APPLICABLE TO ALLEGED COMMISSIONER  
400 VIOLATIONS  
401

402 The Charter currently provides that, if the Town Commission finds  
403 that one of its members has committed certain acts, that  
404 Commissioner shall forfeit office.  
405

406 Shall the Charter be amended to clarify the due process  
407 requirements for such hearings, and to allow the Commission to  
408 consider lesser penalties (censure and a letter of instruction) for  
409 violation of any standard of conduct or code of ethics established  
410 by law and for incapacity for three or more months?  
411

412 YES [ ]

413  
414 NO [ ]

(6) CREATE PROCEDURES FOR VACANCIES IN  
CANDIDACY FOR TOWN ELECTED OFFICE

Section 166.031(6), Florida Statutes, requires that local governments create a procedure to address vacancies in candidacy before an election.

Shall the Charter be amended to add procedures related to candidate vacancies including procedures for withdrawal, supplemental qualifying periods, treatment of remaining candidates, and effects of death, withdrawal or removal of candidates?

YES [ ]

NO [ ]

**Polling place information, the enabling Ordinance including the full text of the proposed Town Charter Amendments and the ballot questions, are available at the office of the Town Clerk, located at 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308.**

\_\_\_\_\_  
Town Clerk

**Section 7. Copies.** Copies of this Ordinance proposing the Charter Amendments are on file at the offices of the Town Clerk located at 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308, and are available for public inspection during regular business hours.

**Section 8. Effectiveness.** Each Charter Amendment provided for in Section 2 of this Ordinance shall become effective if the majority of the qualified electors voting on that specific Charter Amendment, as described in the ballot summaries of Section 4 of this Ordinance, vote for its adoption. Each Charter Amendment shall be considered adopted and effective upon certification of the election results. Following adoption of the Charter Amendment(s), the Town Clerk shall incorporate the adopted Charter Amendment(s) into the Town Charter and shall file

the revised Town Charter with the Office of the Secretary of State as required by Section 166.031, Florida Statutes.

**Section 9. Inclusion in the Town Charter.** Subject to the requirements of Section 8 above, it is the intention of the Town Commission and it is hereby provided that the Charter Amendments shall become and be made a part of the Charter of the Town of Lauderdale-By-The-Sea, Florida, and that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention.

**Section 10. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 11. Effective Date of Ordinance.** This Ordinance shall become effective immediately upon adoption hereof on second reading.

**PASSED AND ADOPTED** on First Reading this 10th day of September, 2013.

**PASSED AND FINALLY ADOPTED** on Second Reading this 22nd day of October, 2013.

  
Mayor Roseann Minnet

Mayor Minnet

First Reading



Second Reading



478

Vice-Mayor Sasser

Aye

Aye

479

Commissioner Brown

Aye

Aye

480

Commissioner Dodd

Aye

Aye

481

Commissioner Vincent

Aye

Aye

482

483

Attest:

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493

Vanessa Castillo

Town Clerk Vanessa Castillo, CMC

Approved as to form:

Susan L. Trevarthen

Susan L. Trevarthen, Town Attorney